

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA

Plaintiff,

vs.

ROBERT FLEMING,

Defendant.

4:11CR3118

MEMORANDUM AND ORDER

Defendant has moved to continue the pretrial motion deadline and file a motion to suppress out of time, (filing no. 29), because after searching diligently for an audio file of a statement, the audio file cannot be located which, in turn, has prompted the defendant's belief that a Franks challenge should be pursued. The motion to continue is unopposed. The court finds the motion should be granted. Accordingly,

IT IS ORDERED:

- 1) Defendant's motion to continue, (filing no. 29), is granted.
- 2) Pretrial motions and briefs shall be filed on or before July 11, 2012.
- 3) Trial of this case is continued pending resolution of any pretrial motions filed.
- 4) The ends of justice served by granting the motion to continue outweigh the interests of the public and the defendant in a speedy trial, and the additional time arising as a result of the granting of the motion, the time between today's date and July 11, 2012, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because, despite counsel's due diligence, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

Dated this 28th day of June, 2012.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge